

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

KELLEY TROY COOLEY, )  
Plaintiff, )  
v. ) C.A. No. 06-178 Erie  
COUNTY EXECUTIVE MARK DIVECCHIO, )  
et al, )  
Defendants. )

**MEMORANDUM ORDER**

Plaintiff complaint was received by the Clerk of Court on August 9, 2006, and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The magistrate judge's report and recommendation, filed on November 20, 2007, recommended that the Motion to Dismiss Amended Complaint filed on behalf of Defendants Mark DiVecchio and Erie County Courthouse (Doc. #27) be denied. The parties were allowed ten (10) days from the date of service to file objections. Service was made on Plaintiff by certified mail at SCI Huntingdon, where he is incarcerated, and on Defendants. No objections were filed. After de novo review of the pleadings and documents in the case, together with the report and recommendation, the following order is entered:

AND NOW, this 3d Day of ~~February~~ <sup>March</sup>, 2008;

IT IS HEREBY ORDERED that the Motion to Dismiss Amended Complaint filed on behalf of Defendants Mark DiVecchio and Erie County Courthouse (Doc. #27) is DENIED.

The report and recommendation of Magistrate Judge Baxter, dated November 20, 2007, is adopted as the opinion of the court.

*Maurice B. Cohill, Jr.*  
MAURICE B. COHILL, JR.  
United States District Judge

cc: Susan Paradise Baxter  
U.S. Magistrate Judge

all parties of record \_\_\_\_\_